

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1, 4, 7-10, 12-16, 18, and 20-23 are pending in the application, with claims 1, 7, 12, and 16 being the independent claims. Claims 5 and 19 are sought to be cancelled, and claims 2, 3, 6, 11, and 17 were previously cancelled without prejudice to or disclaimer of the subject matter therein. Claims 1, 7, 10, 12-16, 18, and 22 are sought to be amended. Applicants reserve the right to prosecute similar or broader claims, with respect to the cancelled and amended claims, in the future. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Advisory Action

Applicant filed an Amendment and Reply under 37 C.F.R. §1.116 on September 29, 2009. In the Advisory Action issued October 13, 2009, the Examiner alleged there were informalities in some of the claim amendments. Although Applicants believe the previously amended claims complied with all aspects of 35 U.S.C. §§ 101 and 112, and without acquiescing to the propriety of the allegations in the Advisory Action, Applicants have clarified the features in claims 1 and 12-16.

Rejection under 35 U.S.C. § 103

At page 2 of the Office Action the Examiner rejected claims 1, 4, 7-9, 12-13, 15-16, 18 and 20-23 under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent Number 6,094,423 to Alfano *et al.* ("Alfano") in view of U.S. Patent Number 6,965,943 to Golestani ("Golestani"). Applicants respectfully traverse this rejection and the "Response to Arguments" section at pages 10 and 11 of the Office Action.

Without acquiescing to the propriety of the rejection, and merely to expedite prosecution, Applicants have amended claims 1, 7, 12, and 16 to incorporate the allowable subject matter of previously pending claim 5. Accordingly, claims 1, 7, 12, and 16 are in condition for allowance.

Claims 1, 7, 12, and 16 recite features that distinguish over the applied references. For example, claim 1 as amended herein recites, *inter alia*, "if a retransmission request occurs while packets are being transmitted, determine a smaller appropriate packet size than the previously selected most appropriate packet size," claim 7 recites, *inter alia*, "wherein if a retransmission request occurs while packets are being transmitted, a smaller packet size than the previously selected packet size is selected," claim 12 recites, *inter alia*, "wherein if a retransmission request occurs while packets are being transmitted, a smaller appropriate packet size than the previously selected appropriate packet size is selected," and claim 16 recites, *inter alia*, "wherein if a retransmission request occurs while packets are being transmitted, a smaller appropriate packet size than the previously selected appropriate packet size is selected."

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the 35 U.S.C. § 103(a) rejection of claims 1, 7, 12, and 16 and pass these

claims to allowance. Additionally, at least based on their respective dependencies to claims 1, 7, 12, and 16, claims 4, 8, 9, 13, 15, 18 and 20-23 should be found allowable over the applied references, as well as for their additional distinguishing features.

Claim Objections/Allowable Subject Matter

Initially, Applicants gratefully acknowledge the Examiner's indication on page 10 that the patent application contains allowable subject matter. The Examiner states that claims 5, 10, 14, and 19 were objected to, but would be allowable over the applied references if rewritten in independent form including all of the features of the base claim and any intervening claims. Applicants have, rather than make these claims independent, included the allowable subject matter in the independent claims, as discussed above.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Reply to Office Action of September 1, 2009

TAKATORI *et al.*
Appl. No. 10/054,038

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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Date: 11/10/09

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